

STATE OF IOWA  
DEPARTMENT OF COMMERCE  
UTILITIES BOARD

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| IN RE:<br><br>AQUILA, INC., d/b/a AQUILA NETWORKS | DOCKET NO. SPU-03-7<br>(INU-03-5) |
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**ORDER GRANTING IN PART AND DENYING IN PART MOTION  
TO TERMINATE REPORTS**

(Issued December 3, 2004)

On October 27, 2003, the Board issued an “Order Not Disapproving Proposal for Reorganization, Denying Request for Extension of Authority, and Requiring Reports,” in this docket. In that order, the Board declined to disapprove Aquila's pledge of Iowa utility assets as collateral for a \$430 million three-year term loan subject to certain conditions. The Board also required Aquila to file reports concerning actions taken to implement its restructuring plan, capital investments in Iowa, consumer survey results, and leak call response times over 60 minutes.

On October 27, 2004, Aquila filed the second six-month compliance report concerning actions taken to implement its restructuring plan and capital investments in Iowa and also filed a motion to terminate the reporting requirements from the October 27, 2003, order. In support of the motion to terminate the reporting requirements, Aquila states that phase one of the reorganization plan, which focused on selling Aquila's most liquid nonstrategic assets and reducing associated liabilities and debt as Aquila exited the merchant business, was already completed prior to the

filing of Aquila's reorganization application. Aquila states that the six-month compliance report filed April 27, 2004, summarized the initiatives from the second phase of the reorganization plan that had been completed as of that date.

Aquila points out that the \$430 million three-year term loan that was the subject of this docket has been retired and the pledge of Iowa assets is no longer operative. Aquila asserts that the approval sought by Aquila and granted by the Board is no longer necessary and the reporting conditions therefore no longer fulfill the intended purpose. Aquila requests the Board end the obligation to make the periodic reports and filings required in ordering clause three in the October 27, 2003, order.

The Board has considered the request to terminate the reporting requirements in the October 27, 2003, order. The specific reporting requirements are as follows:

- a. A report every six months after the date of this order for the next three years detailing the actions taken to implement the debt and restructuring plan. Each report will include a detailed list of capital investments made in Iowa over the three calendar years following the pledging of Iowa-jurisdictional assets and those made in 2001, 2002, and 2003 to be used as a benchmark against those future investments.
- b. A report every month listing the leak call response times over 60 minutes and an explanation of any delays in responding within 60 minutes for each call.

c. Gallup (or equivalent) surveys that Aquila will continue to have conducted by or for Aquila concerning service quality and customer satisfaction.

d. A copy of all decisions concerning the pledging of utility assets made by other states, regulatory commissions, or similar authorities.

The Board will discuss each of the reporting requirements separately.

**1. Reporting requirements of reorganization plan**

The Board required Aquila to file 12 semi-annual reports detailing the actions taken to implement the debt and restructuring plan. These reports will allow the Board to monitor Aquila's progress toward a domestic-utility-only corporation. The filings would also allow the Board to monitor Aquila's progress in managing its debt load.

The Board also required Aquila to include in each report a detailed list of capital investments made in Iowa over the three calendar years following the pledging of Iowa-jurisdictional assets. This information would allow the Board to monitor Aquila's capital investment in Iowa to determine whether the debt problems facing Aquila were affecting its ability to make capital improvements. In the first two reports, Aquila provided a summary of capital investments in Iowa as required and also provided a forecast of expected investments in Iowa.

Based upon Aquila's filing on October 27, 2004, the Board recognizes that the \$430 million three-year term loan that gave rise to the reporting requirements has been retired and the pledged assets have been released. The Board also recognizes that Aquila has accomplished much of its restructuring and debt reduction plan. A

review of Aquila's filed reports, plus the various financial reports in the public domain, shows that Aquila has made significant movement toward completion of its reorganization plan. In particular, Aquila made a successful public offering of common stock this past August that appears to have made Aquila's debt levels more manageable.

While Aquila may not be completely past its financial problems, there seems to be an improvement in its credit profile and financial strength. For example, while the outlook is still negative, Standard and Poor's raised Aquila's ratings to 'B-' from 'CCC+' on August 18, 2004.

Although the Board remains interested in monitoring the financial health of Aquila, the Board recognizes that the underlying rationale for requiring these reports no longer exists and much of the information requested is accessible elsewhere. For example, the information concerning capital investments is available on a company-wide basis in Federal Energy Regulatory Commission FERC Form 2. The Board will, therefore, grant the part of the motion to terminate the six-month reports concerning actions taken to implement the reorganization plan and listing capital investments in Iowa. The Board, however, retains some continuing level of concern about Aquila's financial health and is still interested in ensuring that Aquila completes its reorganization and continues to make needed capital investments in Iowa. Instead of the six-month reports, the Board will require a final report providing the information described in the October 27, 2003, order to be filed at the end of the three-year period, that is, on or before October 27, 2006.

## **2. Reporting requirements leak call response times**

Aquila has been reporting leak call response times of over 60 minutes as required since December 2003. The Board opened Docket No. INU-03-5 to receive these reports and allow for separate consideration. In the October 27, 2004, motion, Aquila requests that the Board terminate this monthly reporting requirement.

The reports filed by Aquila show that it has had problems with leak response times over 60 minutes, especially in the Denison District. The percentage of late responses in the Denison District was 20 percent in May, 16.67 percent in June, 28 percent in July, and 33.33 percent in August. The September percentage was 6.25 percent and October was 12.50 percent.

The Board considers the percentages for August and earlier months to be unreasonable and the reports show that the acceptable percentage achieved in September was not continued in October. It appears that most of the late responses are caused by long drive times. Aquila has indicated that it is hiring additional technicians to address this problem.

Until the response times are consistently within acceptable limits, the Board finds that it should continue to receive these reports. The Board will deny the part of Aquila's motion to discontinue the filing of reports of leak call response times over 60 minutes. Aquila should continue to file the reports in Docket No. INU-03-5 until the Board is satisfied that Aquila has made the changes necessary in the Denison area to reduce the percentage of late response times to reasonable levels.

**3. Reporting requirements customer surveys**

In the October 27, 2003, order, the Board required Aquila to file the results of customer satisfaction surveys that Aquila indicated it conducted each month. The survey results provided in the monthly reports have shown either consistent customer satisfaction levels or some improvement. The Board will grant the motion to discontinue the report showing the results of the customer satisfaction surveys. If customer complaints increase or other problems are encountered in the future, the Board will request copies of the surveys for review.

**4. Copies of decisions from other states**

In compliance with the Board's order, Aquila filed copies of the decisions from Missouri, Kansas, and Minnesota. All three jurisdictions denied Aquila the ability to pledge the utility's assets in each of the three states. Aquila has complied with this reporting requirement.

In this order, the Board is granting Aquila relief from some of the reports required by the October 27, 2003, order. Aquila will continue to be required to file reports related to leak call response times over 60 minutes and a final report on its reorganization efforts. In addition, Aquila agreed to certain conditions presented in the October 27, 2003, order. Those conditions are that Aquila shall commit to obtain approval from the Board before it starts any new unregulated business ventures and will advise parties to any actions involving Iowa utility assets that Board approval is required before assets can be transferred. The Board considers Aquila to still be subject to these conditions.

**IT IS THEREFORE ORDERED:**

1. The motion to terminate reporting requirements filed by Aquila, Inc., d/b/a Aquila Networks, on October 27, 2004, is granted in part and denied in part as described in this order.

2. Aquila, Inc., d/b/a Aquila Networks, shall file a final report concerning actions taken to implement the debt and restructuring plan and a detailed list of capital investments made in Iowa on or before October 27, 2006.

**UTILITIES BOARD**

/s/ Diane Munns

/s/ Mark O. Lambert

ATTEST:

/s/ Judi K. Cooper  
Executive Secretary

/s/ Elliott Smith

Dated at Des Moines, Iowa, this 3<sup>rd</sup> day of December, 2004.